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FISCAL IMPACT STATEMENT

LS 7160

BILL NUMBER: SB 510

NOTE PREPARED: Jan 8, 2013

BILL AMENDED:

SUBJECT: Substitute Natural Gas Contracts.

FIRST AUTHOR: Sen. Eckerty

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: The bill defines "guarantee of savings" with respect to retail end use customers of substitute natural gas (SNG). It amends the definition of "purchase contract". It defines "savings shortfall".

The bill requires the Indiana Finance Authority (IFA) to submit a final purchase contract, including amendments, and any other agreements with a producer of SNG to the Indiana Utility Regulatory Commission (IURC). It requires the IFA to determine on a three year cycle if retail end use customers are provided a guarantee of savings or a savings shortfall under a purchase contract. It requires the IFA to electronically submit its findings to the IURC. It requires the IURC to verify and approve the findings and, if there is a savings shortfall, order a producer of SNG to provide a refund.

Effective Date: Upon passage; March 24, 2009 (retroactive).

Explanation of State Expenditures: The Indiana Finance Authority (IFA) has already entered into a purchase contract under IC 4-4-11.6. This bill could potentially void that contract because it makes retroactive changes to current statute that would modify the terms of that contract. The bill could potentially result in a refund of "savings shortfall" from the SNG producer to retail end use customers every three years. "Savings shortfall" arises when the purchase price of SNG under the final purchase contract is greater than the three year average market price of natural gas. The existing contract specifies payment of any shortfall by the producer at the end of the primary term of the contract, which is 30 years from the commercial production date. If a party challenges the enactment of this bill, it would result in costs related to court actions. The fiscal impact is contingent upon the administrative decisions by the parties to the contract and any ruling by a court.

Background: I.C. 4-4-11.6 permitted the IFA to enter into contracts for the purchase and sale of substitute natural gas (SNG) from coal gasification facilities to regulated energy utilities for delivery to retail end use customers. It required that before July 1, 2009, the facility must apply for a federal loan guarantee through the U.S. Department of Energy's Loan Guarantee Program Office for the financing of the facility. It also required the IFA to establish the SNG Account . The SNG Account consists of payments made by retail end use customers to the IFA through regulated energy utilities for costs associated with the purchase and delivery of SNG.

The IFA entered into a 30-year contract with Indiana Gasification, LLC, a subsidiary of Leucadia National Corporation, to purchase 38 million MMBtus of SNG. The contract was approved by Indiana Utility Regulatory Commission (IURC) in November, 2011. The natural gas marketplace has experienced changes in SNG pricing since the inception of this project. This led to disagreements between various parties impacted by this contract. Indiana Gas Company, Inc. and Southern Indiana Gas and Electric Company, et. al. filed a lawsuit against the two parties to the contract. On October 30th 2012, the Indiana Court of Appeals reversed the IURC's order approving the SNG purchase and sale agreement between IFA and Indiana Gasification, LLC. The impact from this ruling is currently unknown and contingent upon further actions taken by the parties involved in the lawsuit.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: IFA; OUCC; IURC.

Local Agencies Affected:

Information Sources: <http://www.in.gov/ifa/2695.htm> , Indiana Finance Authority.

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